

Senate Bill No. 1777

CHAPTER 163

An act to amend Sections 33050 and 46205 of, and to add Chapter 6.10 (commencing with Section 52120) to Part 28 of, the Education Code, relating to class size in the public elementary schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 15, 1996. Filed with
Secretary of State July 15, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1777, O'Connell. Education: class size reduction.

(1) Under existing law, the Morgan-Hart Class Size Reduction Act of 1989, any school district that maintains any of grades 9 to 12, inclusive, may apply to the Superintendent of Public Instruction for an apportionment to implement a program to reduce class size in those grades.

This bill would create the Class Size Reduction Program to provide funding to school districts to reduce class size in kindergarten and grades 1 to 3, inclusive, to no more than 20 pupils per certificated teacher. The bill would require that the Superintendent of Public Instruction apportion to each applicant school district an amount equal to \$650 per each pupil enrolled in classes participating in the program, as specified, for class size reduction, provided the school district certifies that it has met certain requirements. The bill would require the Superintendent to apportion \$325 per each pupil enrolled in classes participating in the program for reimbursement for any class in kindergarten or any of grades 1 to 3, inclusive, that is reduced, as specified, for at least half of the instructional minutes offered per day. The bill would provide that the number of pupils for which a school district may claim funding shall not exceed 20 per certificated teacher providing direct instructional services to those pupils. The bill would provide that class size shall be determined in the same manner that class size is determined when computing apportionments and allowances from the State School Fund, as specified.

This bill would require the State Department of Education to contract for an independent evaluation of the Class Size Reduction Program to be completed on or before March 28, 2002. The bill would require that the report be submitted to specified fiscal and policy committee chairpersons in each house of the Legislature and to the Governor and Director of Finance no later than March 28, 2002.

(2) Under existing law, the governing board of a school district or a county board of education may request the State Board of Education to waive all or part of any section of the Education Code or any regulation adopted by the State Board of Education that implements the Education Code, except certain listed provisions.

This bill would provide that the State Board of Education may not waive the Class Size Reduction Program in kindergarten and grades 1 to 3, inclusive.

(3) This bill would appropriate \$771,000,000 to the Superintendent of Public Instruction for the exclusive purpose of allocating funds to school districts pursuant to the Class Size Reduction Program. The bill would require that the appropriation be included in the amounts appropriated by the state in the 1996–97 fiscal year for the purpose of meeting the state's minimum funding obligation to school districts and community college districts under Section 8 of Article XVI of the California Constitution for that fiscal year.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 33050 of the Education Code is amended to read:

33050. (a) The governing board of a school district or a county board of education may, on a districtwide or countywide basis or on behalf of one or more of its schools or programs, after a public hearing on the matter, request the State Board of Education to waive all or part of any section of this code or any regulation adopted by the State Board of Education that implements a provision of this code that may be waived, except:

(1) Article 1 (commencing with Section 15700) and Article 2 (commencing with Section 15780) of Chapter 6 of Part 10.

(2) Chapter 8 (commencing with Section 16000) and Chapter 9 (commencing with Section 16400) of Part 10.

(3) Chapter 22 (commencing with Section 17700), Chapter 23 (commencing with Section 17760), and Chapter 25 (commencing with Section 17785) of Part 10.

(4) Part 13 (commencing with Section 22000).

(5) Section 35735.1.

(6) Paragraph (8) of subdivision (a) of Section 37220.

(7) The following provisions of Part 23:

(A) Chapter 1 (commencing with Section 39000).

(B) Article 1 (commencing with Section 39100) to Article 6 (commencing with Section 39210), inclusive, of Chapter 2.

(C) Section 39248; Sections 39313 to 39325, inclusive; Sections 39360.5 and 39363 and subdivision (a) of Section 39363.5; and Sections 39618 to 39621, inclusive.

(8) Sections 52163, 52165, 52166, and 52178.

(9) Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(10) The identification and assessment criteria relating to any categorical aid program, including Sections 52164.1 and 52164.6.

(11) Sections 41000 to 41360, inclusive; Sections 41420 to 41423, inclusive; Sections 41600 to 41866, inclusive; Sections 41920 to 42911, inclusive; Article 3 (commencing with Section 44930) of Chapter 4 of Part 25; Part 26 (commencing with Section 46000) and Chapter 6 (commencing with Section 48900) and Chapter 6.5 (commencing with Section 49060) of Part 27; or regulations in Title 5 of the California Code of Regulations adopted pursuant to Article 3 (commencing with Section 44930) of Chapter 4 of Part 25.

(12) Section 51513.

(13) Chapter 6.10 (commencing with Section 52120) of Part 28, relating to the Class Size Reduction Program.

(b) Any waiver of provisions related to the programs identified in Section 52851 shall be granted only pursuant to Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(c) The waiver of an advisory committee required by law shall be granted only pursuant to Article 4 (commencing with Section 52870) of Chapter 12 of Part 28.

(d) Any request for a waiver submitted by the governing board of a school district or a county board of education pursuant to subdivision (a) shall include a written statement as to (1) whether the exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, participated in the development of the waiver and (2) the exclusive representative's position regarding the waiver.

(e) Any request for a waiver submitted pursuant to subdivision (a) relating to a regional occupational center or program established pursuant to Article 1 (commencing with Section 52300) of Chapter 9 of Part 28, that is operated by a joint powers entity established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, shall be submitted as a joint waiver request for each participating school district and shall meet both of the following conditions:

(1) Each joint waiver request shall comply with all of the requirements of this article.

(2) The submission of a joint waiver request shall be approved by a unanimous vote of the governing board of the joint powers agency.

(f) The governing board of any school district requesting a waiver under this section of any provision of Article 5 (commencing with

Section 39390) of Chapter 3 of Part 23 shall provide written notice of any public hearing it conducted pursuant to subdivision (a), at least 30 days prior to the hearing, to each public agency identified under Section 39394.

SEC. 2. Section 46205 of the Education Code is amended to read:

46205. (a) For purposes of this article, instructional time for school districts conducting early-late instructional programs in kindergarten and grades 1 to 8, inclusive, shall be computed by adding the total amount of instructional time provided in each portion of the early-late instructional programs to the amount of instructional time offered when all pupils in the class are scheduled to attend. It is not the intent of the Legislature to disrupt or restrict early-late instructional programs for pupils in kindergarten and grades 1 to 8, inclusive.

(b) This section shall be applicable only if the early-late instructional program was in operation during the 1983–84 fiscal year, except that the Superintendent of Public Instruction may approve, based on educational reasons, the application of this section to programs commencing operation after the 1983–84 fiscal year.

(c) Notwithstanding any other provision of law, this section is not applicable to any class in any grade level for which class size reduction funding is received pursuant to the Class Size Reduction Program contained in Chapter 6.10 (commencing with Section 52120) of Part 28.

SEC. 3. Chapter 6.10 (commencing with Section 52120) is added to Part 28 of the Education Code, to read:

CHAPTER 6.10. CLASS SIZE REDUCTION PROGRAM

52120. There is hereby established the Class Size Reduction Program.

52121. The following entities are not eligible to participate in the Class Size Reduction Program:

- (a) County boards of education.
- (b) County superintendents of schools.

52122. (a) Except as otherwise provided by Section 52123, any school district that maintains any kindergarten or any of grades 1 to 3, inclusive, may apply to the Superintendent of Public Instruction for an apportionment to implement a class size reduction program in that school district in any kindergarten or any of grades 1 to 3, inclusive.

(b) An application submitted pursuant to this chapter shall identify both of the following:

(1) Each class that will participate in the Class Size Reduction Program.



(2) For each class that will participate in the Class Size Reduction Program, whether that class will operate under Option One or Option Two:

(A) Option One: a school district shall provide a reduced class size for all pupils in each classroom in each grade level for which funding is claimed. For the purposes of this paragraph, class size shall be determined in the same manner as provided in Sections 41376 and 41378 and any rules or regulations related thereto adopted by the Superintendent of Public Instruction.

(B) Option Two: a school district shall provide a reduced class size for all pupils in each classroom for at least one-half of the instructional minutes offered per day in each grade level for which funding is claimed. School districts selecting this option shall primarily devote those instructional minutes to the subject areas of reading and mathematics. For the purposes of this paragraph, class size for each class participating in the program shall be determined in the same manner as provided in Sections 41376 and 41378 and any related rules or regulations adopted by the Superintendent of Public Instruction.

(c) A school district that intends to implement a Class Size Reduction Program for the 1996–97 school year shall submit an application for funds pursuant to this chapter to the Superintendent of Public Instruction not later than November 1, 1996. In order to receive the total amount of funding for which the school district is eligible pursuant to Section 52126, a school district shall implement the Class Size Reduction Program by February 16, 1997, within the meaning of paragraph (2) of subdivision (a).

(d) A school district that intends to implement or continue to implement a Class Size Reduction Program for the 1997–98 school year and any subsequent school year shall submit an application for funding pursuant to this chapter to the Superintendent of Public Instruction not later than the June 30 prior to the commencement of the new school year.

(e) Any school district that chooses to reduce class size through the use of an early-late instructional program is ineligible to also use Section 46205, relating to the computation of instructional time for purposes of the Incentive for Longer Instructional Day and Year, in any grade level or which class size reduction funding is received pursuant to this chapter.

52123. A school district's application for funding to implement a program pursuant to this chapter shall include the district's certification of each of the following items as a condition to receiving any apportionment under Section 52126:

(a) Certification of the number of classes in each eligible grade level selected for a class size reduction apportionment pursuant to this chapter.

(b) Certification of pupil enrollment, as of October of the previous calendar year, in each class selected for class size reduction pursuant

to subdivision (a). Classes comprised of special education pupils enrolled in special day classes on a full-time basis shall not be included in this program.

(c) Certification that a certificated teacher has been hired by the school district and is providing direct instructional services to each class selected for class size reduction pursuant to this chapter and that there are not more than 20 pupils per each such class. For the purposes of this subdivision, class size for each class participating in the program shall be determined in the same manner as provided in Sections 41376 and 41378, and any rules or regulations related thereto adopted by the Superintendent of Public Instruction.

(d) Certification that the school district has maintained or further reduced class sizes accomplished through previous apportionments made under this chapter.

(e) Certification that the school district has not increased the average class size in any kindergarten or in any of grades 1 to 3, inclusive, in the district, above the average that existed in the school year preceding the school year in which the district first received an apportionment under this chapter.

(f) Certification that the school district has a staff development program pursuant to Section 52127 and that the program has been approved by the governing board of the school district.

(g) Certification that the school district will collect and maintain any data required by the Superintendent of Public Instruction that will aid in the evaluation of the Class Size Reduction Program. The data shall include, but not be limited to, individual test scores or other records of pupil achievement and pupil behavior. Any data collected shall be protected in a manner that will not permit the personal identification of any pupil or parent.

52124. (a) Any school district that implements a Class Size Reduction Program pursuant to this chapter is subject to this section.

(b) A school district may establish a program to reduce class size in kindergarten and grades 1 to 3, inclusive, and that program shall be implemented at each schoolsite according to the following priorities:

(1) If only one grade level is reduced at a schoolsite, the grade level shall be grade 1.

(2) If only two grade levels are reduced at a schoolsite, the grade levels shall be grades 1 and 2.

(3) If three grade levels are reduced at a schoolsite, then those grade levels shall be kindergarten and grades 1 and 2 or grades 1 to 3, inclusive. Priority shall be given to the reduction of class sizes in grades 1 and 2 before the class sizes of kindergarten or grade 3 are reduced.

(4) If four grade levels are reduced at a schoolsite, then those grade levels shall be kindergarten and grades 1 to 3, inclusive. First priority shall be given to the reduction of class sizes in grades 1 and



2, second priority shall be given to the reduction of class size in kindergarten and grade 3. This paragraph shall be operative only in those fiscal years for which funds are appropriated expressly for the purposes of this paragraph.

(c) It is the intent of the Legislature to continue to permit the use of combination classes of more than one grade level to the extent that school districts are otherwise permitted to use that instructional strategy. However, any school district that uses a combination class in any class for which funding is received pursuant to this chapter may not claim funding pursuant to this chapter if the total number of pupils in the combination class, regardless of grade level, for any class that exceeds 20 pupils per certificated teacher assigned to provide direct instructional services.

(d) The governing board of a school district shall certify to the Superintendent of Public Instruction that it has met the requirements of this section in implementing its class size reduction program. If a school district receives funding pursuant to this chapter but has not implemented its class size reduction program for all grades and classes for which it received funding pursuant to this chapter, the Superintendent of Public Instruction shall notify the Controller and the school district in writing and the Controller shall deduct an amount equal to the amount received by the school district under this chapter from the school districts next apportionment or apportionments of state funds to the district, other than basic aid apportionments required by Section 6 of Article IX of the Californian Constitution.

(e) The Superintendent of Public Instruction shall develop a procedure to enforce subdivision (c) and shall incorporate that procedure as an integral part of the school district audit and compliance review conducted by the State Department of Education. The Controller shall include a provision appropriate to the enforcement of subdivision (c) in the audit guide required by subdivision (a) of Section 14502.

52125. (a) On or before August 1, 1996, the Superintendent of Public Instruction shall develop a form for the applications by which school districts may apply for funding pursuant to this chapter.

(b) The State Board of Education may adopt regulations for the purposes of this chapter as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, including Section 11349.6 of the Government Code, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare, notwithstanding subdivision (e) of Section 11346.1 of the Government Code. Notwithstanding subdivision (e) of Section 11346.1, any regulation adopted pursuant to this section shall not



remain in effect more than 180 days unless the State Board of Education complies with all provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, as required by subdivision (e) of Section 11346.1 of the Government Code.

52126. The amount of funding that each school district implementing a Class Size Reduction Program pursuant to this chapter is eligible to receive shall be computed as follows:

(a) If a school district applies to participate in Option One, pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant school district an amount equal to six hundred fifty dollars (\$650) for each pupil actually enrolled in the classes in which the school district implements the program, except that the maximum number of pupils for which a school district may claim funding for any class shall not exceed 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program and shall not be based on the average size of the classes for any grade levels for which funding is claimed.

(b) If a school district applies to participate in Option Two, pursuant to subparagraph (B) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant school district an amount equal to three hundred twenty-five dollars (\$325) per pupil actually enrolled in the classes in which the school district implements the program, except that the number of pupils in any class for which a school district may claim funding for the instructional minutes offered shall not exceed 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program and shall not be based on the average size of the classes for any grade levels for which funding is claimed.

(c) The per pupil amount set forth in subdivisions (a) and (b) shall be increased annually for inflation by the percentage change determined pursuant to subdivision (b) of Section 42238.1.

(d) The Superintendent of Public Instruction shall only apportion funds to a school district upon certification that its class size reduction program has been implemented for that fiscal year.

(e) It is the intent of the Legislature that the total statewide amount computed for the purposes of this chapter pursuant to this section, commencing with the 1997–98 fiscal year, be appropriated to the Superintendent of Public Instruction in the annual Budget Act.

52127. (a) As a condition to receiving any apportionment pursuant to Section 51726, school districts shall have a staff development program that requires any certificated teacher who will provide direct instructional services for a class participating in the school district's class size reduction program to receive the

appropriate training necessary to maximize the educational advantages of class size reduction. This training shall include, but not be limited to, methods for providing each of the following:

- (1) Individualized instruction.
- (2) Effective teaching, including classroom management, in smaller classes.
- (3) Identifying and responding to pupil needs.
- (4) Opportunities to build on the individual strengths of pupils.

(b) School districts may use funds currently received for staff development or funds received under this chapter to meet the requirements of this section.

52128. The State Department of Education shall contract for an independent evaluation of the Class Size Reduction Program to be completed on or before March 28, 2002. The costs of the evaluation shall be paid for from funds appropriated to the department in the Budget Act. The evaluation shall consider the data collected by school districts pursuant to subdivision (g) of Section 52123. The evaluation shall determine whether this program has been effective in improving pupil achievement and shall identify components of a successful class size reduction program. The evaluation shall be submitted to the chairpersons of the Joint Legislative Budget Committee, the Assembly Committee on Budget, the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Education, and the Senate committee of Education, and to the Governor and the Director of Finance no later than March 28, 2002.

SEC. 6. (a) The sum of seven hundred seventy-one million dollars (\$771,000,000) is hereby appropriated from the General Fund, without regard to fiscal year, to the Superintendent of Public Instruction exclusively for allocation to school districts for the purposes of the Class Size Reduction Program established pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28 of the Education Code.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code for the 1996–97 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1996–97 fiscal year.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make statutory changes necessary to implement the Budget Act of 1996, it is necessary for this act to take effect immediately.

O

